

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:

)
)
) Dole Bakersfield, Inc. a/t/a Dole Fresh
) Fruit,
)
)
) Respondent
)

PACA Docket No. D#00-0004

DECISION WITHOUT HEARING BY REASON OF CONSENT

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.) (PACA). Complainant has filed a complaint alleging that Respondent violated section 2(4) of the PACA (7 U.S.C. § 499b(4)) by failing, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with six transactions involving perishable agricultural commodities in the course of interstate or foreign commerce, in that Respondent, from approximately May 23, 1996, through June 5, 1996, permitted six trailer loads of table grapes to enter the United States from Mexico which failed to meet United States import requirements due to size.

Respondent does not admit the allegations of the complaint. However, for the purposes of settling this matter, the parties agree to the entry of this Decision. Therefore, this Decision Without Hearing by Reason of Consent is entered without further procedure or hearing pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Findings of Fact

1. Dole Bakersfield, Inc. a/t/a Dole Fresh Fruit (hereinafter, "Respondent"), is a corporation organized and existing under the laws of the State of California. Its business address is 31365 Oak Crest Drive, Westlake Village, California 91361-4634.

2. At all times material herein, Respondent was licensed under the provisions of the PACA. License number 881342 was issued to Respondent on June 6, 1988. This license has been renewed annually and is next subject to renewal on or before June 6, 2000.

3. As set forth more fully in paragraph III of the complaint, between May 23, 1996, through June 5, 1996, the Secretary of Agriculture has reason to believe that Respondent failed to perform a duty, express or implied, in connection with transactions in perishable agricultural commodities, in that Respondent allowed grapes to enter into interstate commerce that failed to meet U.S. import size requirements.

4. Respondent admits to the jurisdictional facts alleged in paragraph II of the complaint, but does not admit the remaining allegations of the complaint.

Conclusions

Respondent having admitted the jurisdictional facts and the parties having agreed to the entry of this Decision Without Hearing by Reason of Consent, such Decision will be entered.

Order

In lieu of a 30 day license suspension, the following sanction is imposed upon Respondent:

1. Respondent shall pay a civil penalty of \$180,000; and

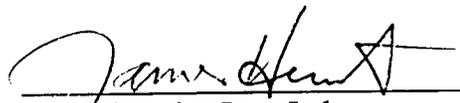
2. Respondent shall implement a comprehensive compliance program in accordance with the terms set forth in a document entitled "Understanding Regarding Compliance Program".

This order shall become final upon issuance.

Copies of this order shall be served upon the parties.

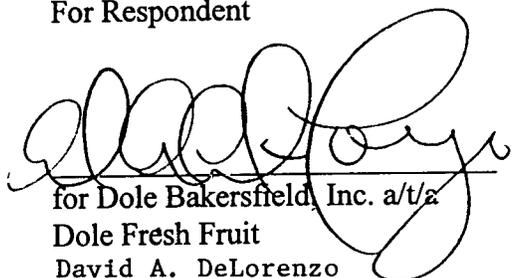
Done at Washington, D.C.

this 19th of November, 1999



Administrative Law Judge

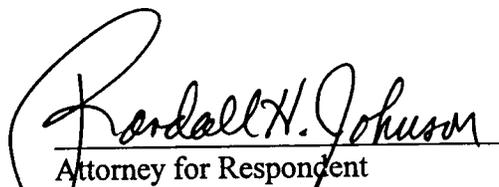
For Respondent

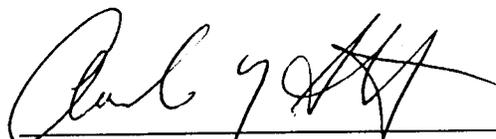


for Dole Bakersfield, Inc. a/t/a
Dole Fresh Fruit
David A. DeLorenzo
Vice President

For Complainant



Eric M. Forman
Associate Deputy Administrator
Fruit and Vegetable Programs
Agricultural Marketing Service

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